



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

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Atlantic Coast Environmental Services  
P.O. Box 8608  
New Haven, CT 06531

**NOTICE OF PROPOSED  
LICENSE ACTION  
No. LA 01-06**

**June 25, 2001**

**I. Introduction**

This Notice of Proposed License Action is issued by the New Hampshire Department of Environmental Services, Waste Management Division to Atlantic Coast Environmental Services, pursuant to RSA 541-A:30 and RSA 147-A:6. DES is proposing to revoke the New Hampshire Hazardous Waste Transporter Registration, TNH-0286 held by Atlantic Coast Environmental Services, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

**II. Parties**

1. The Department of Environmental Services, Waste Management Division ("DES") is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Atlantic Coast Environmental Services ("ACES") is a corporation registered to do business in Connecticut having a mailing address of P.O. Box 8608, New Haven, CT 06531.

**III. Summary of Facts and Law Supporting Proposed Action**

1. RSA 147-A authorizes DES to regulate the management, transportation, and disposal of hazardous waste in New Hampshire. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100 – 1000, the Hazardous Waste Rules, to implement this regulatory program.
2. RSA 147-A:6 authorizes DES to administer the Hazardous Waste Transporter Program. Pursuant to RSA 147-A:3, the Commissioner has adopted Env-Wm 600 relative to this specific program.
3. RSA 147-A:6, V(c) authorizes DES to modify, suspend, or revoke a hazardous waste transporter registration if the transporter violates any provision of RSA 147-A, any rules adopted by the Commissioner pursuant to RSA 147-A, or any rules adopted by the Commissioner of the Department of Safety pursuant to RSA 21-P:17.
4. RSA 147-A:6, V(d)(1) authorizes DES to deny a registration application or a registration renewal application or suspend or revoke a registration if, the applicant/registant fails to demonstrate sufficient reliability, expertise, integrity, and competence to transport hazardous waste.
5. Env-Wm 610.02(g) states "for the purposes of issuing a transporter registration or renewal

registration, suspending, revoking or denying a transporter registration or renewal registration, [DES] shall conclude that the registrant does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste if the registrant failed to comply with an order issued by [DES] or by any state relative to a violation of any other statute administered by [DES] or by any state.”

6. DES issued New Hampshire Hazardous Waste Transporter Registration number TNH-0286 dated October 7, 1998 (“the Registration”) to ACES, to allow ACES to transport hazardous waste in New Hampshire.

7. Maurice LaFreniere is the president of ACES

8. On June 7, 1999, the Connecticut Attorney General’s Office filed a civil summons (“Summons”) on behalf of the Connecticut Department of Environmental Protection to Maurice LaFreniere and Devon Oil & Energy Corporation (“Devon Oil”).

9. According to the Summons, Mr. LaFreniere was the operator of a used oil retailing facility, Devon Oil. During the time that Mr. LaFreniere operated Devon Oil, Mr. LaFreniere had not applied for the necessary permits and accepted used oil contaminated with hazardous waste from another source. The Summons alleges that Mr. LaFreniere resold the contaminated used oil to third-party customers as on-specification used oil fuel, and abandoned a large amount of hazardous waste, used oil, and other regulated wastes when operations of Devon Oil ceased.

10. On August 17, 1994, May 6, 1996, and October 5, 1998 (the “Inspections”), personnel from the Connecticut Department of Environmental Protection (“DEP”) conducted inspections of Devon Oil.

11 During the Inspections, the DEP found that Devon Oil violated the following regulations:

- a. 40 C.F.R. 270 by receiving and storing used oil contaminated with hazardous waste without a Resource Conservation and Recovery Act (“RCRA”) Part B permit or interim status at Devon Oil.
- b. 40 C.F.R. 265.76 by failing to submit unmanifested waste reports for the used oil contaminated with hazardous waste which was received by Devon Oil.
- c. 40 C.F.R. 265.13 by failing to comply with the waste analysis requirements for treatment, storage, and disposal facilities (“TSDFs”) including the preparation of a waste analysis plan, and the analysis of incoming wastes.
- d. 40 C.F.R. by failing to comply with the inspection requirements for TSDFs including the preparation of an inspection schedule and log, and regular inspections of the TSDF.
- e. 40 C.F.R. 265.142 and 265.143 by failing to comply with TSDF closure requirements, including the preparation of a closure plan and closure cost estimates, and the acquisition and documentation of adequate closure cost assurance.
- f. 40 C.F.R. 265.71(c) and 262.12 by selling used oil contaminated with hazardous waste to third-parties who were not permitted to burn hazardous waste fuel.

- g. 40 C.F.R. 268 by receiving and storing hazardous waste fuel, commingling hazardous waste fuel with other used oils, and by reselling used oils, which remained hazardous waste fuels after commingling, therefore, failing to comply with the Land Disposal Restrictions
- h. 40 C.F.R. 265.197 and 40 C.F.R. 262.12(c) by failing to properly dispose of, and by abandoning, approximately 9,450 gallons of used oil contaminated by hazardous waste.  
40 C.F.R. 265.12 by failing to apply to the United States Environmental Protection Agency ("EPA") for an EPA identification number.
- j. 40 C.F.R. 265.16 by failing to provide employees at Devon with the required TSDF personnel training and to document such training.
- k. 40 C.F.R. 265 Subpart D by failing to prepare, maintain and execute a hazardous waste contingency plan.  
40 C.F.R. 265 Subpart E by failing to comply with operating record requirements for TSDFs.
- m. 40 C.F.R. 265.147 by failing to document that liability insurance coverage for sudden accidental occurrences was in place.
- n. 40 C.F.R. 265.191 by failing to document that the TSDF was in compliance with hazardous waste tank requirements.

12. On May 18, 2000, a finding of default was entered against Mr. LaFreniere and Devon Oil due to their failure to appear for a conference pretrial scheduled on May 17, 2000.

13. On November 8, 2000, the State of Connecticut Superior Court, Judicial District of Hartford at Hartford, ordered that civil penalties in the amount of \$800,192 be assessed against Mr. LaFreniere and Devon Oil jointly and severally.

#### **IV. Violations**

1. The violations identified in paragraph III.11 demonstrate that ACES and Maurice LaFreniere do not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste.

#### **V Proposed Action**

1. DES proposes to revoke Hazardous Waste Transporter Registration TNH-0286 for the duration of the current registration, and to refuse to renew any future application for registration received from or on behalf of ACES or Maurice LaFreniere, or from or on behalf of any other business entity in which Mr. LaFreniere holds a position of responsibility over the management, including transportation, of hazardous waste.

#### **VI. Hearing, Response, Proposed Settlement**

ACES has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:30, at which ACES and any witnesses ACES may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If ACES wishes to have a hearing, one will be scheduled promptly.

ACES may waive its right to a hearing. If ACES waives the hearing, DES will revoke the Registration and will refuse to renew any future application for registration received from or on behalf of ACES or Mr. LaFreniere, or from or on behalf of any other business entity in which Mr. LaFreniere holds a position of responsibility over the management, including transportation, of hazardous waste. ACES and Mr. LaFreniere should notify DES of its decision by filling out and returning the enclosed colored form by July 16, 2001.

RSA 541-A:31, III(e) provides that ACES and Mr. LaFreniere have the right to have an attorney present to represent ACES and Mr. LaFreniere at ACES and Mr. LaFreniere's expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) ACES and Mr. LaFreniere have the right to request DES to provide a certified shorthand court reporter at ACES and Mr. LaFreniere's expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

If you have any questions or would like to schedule a meeting regarding this matter, please contact Tammy Calligandes, Environmentalist, at 271-3899

**COPY**  
Philip J. O'Brien, Ph.D., Director  
Waste Management Division  
Department of Environmental Services

**Certified Mail # 7099 3400 0003 0690 4767**

cc: Gretchen Rule, DES Enforcement Coordinator  
Tammy Calligandes, WMD  
Paul Franson, CT DEP